

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANCIS W. LABRACHE, JR.,	:	CONSOLIDATED UNDER
	:	MDL 875
Plaintiff,	:	
	:	
	:	
v.	:	
	:	
	:	
A-C PRODUCT LIABILITY TRUST,	:	E.D. PA CIVIL ACTION NO.
ET AL.,	:	2:09-30218-ER
	:	
Defendants.	:	

O R D E R

FILED  
SEP 8 2015  
MICHAEL J. [unclear] Clerk  
By [unclear] Dep. Clerk

AND NOW, this 4rd day of September, 2015, upon consideration of Defendants' Motion for Summary Judgment (Judicial Estoppel) (ECF No. 107), and for the reasons set forth in the accompanying memorandum, it is hereby **ORDERED** that the motion is **DENIED in part** and **DENIED without prejudice in part**, as follows:

- (1) The motion is **DENIED** as to the arguments related to judicial estoppel; and
- (2) The motion is **DENIED without prejudice** as to the arguments related to the real party in interest/standing.

It is **FURTHER ORDERED**, in accordance with the accompanying memorandum, as follows:

- (1) Plaintiff's counsel (as special counsel for the

bankruptcy trustee in Mr. Labrache's bankruptcy case, approved by the Bankruptcy Court for the Middle District of Florida, which presides over that case (No. 8:11-bk-17499-KRM) (see 2:09-cv-30218, ECF No. 138-1)), is to file a motion to substitute the bankruptcy trustee as the party-plaintiff in the instant case by **September 23, 2015**;

- (2) In the event that the motion to substitute is not made, Defendants may thereafter renew their motion for summary judgment on grounds that the Plaintiff is not the real party in interest/standing.
- (3) The Clerk of this Court shall make a copy of this order and the accompanying memorandum and file said copy on the docket of Mr. Labrache's bankruptcy case in the Bankruptcy Court for the Middle District of Florida (No. 8:11-bk-17499-KRM).

AND IT IS SO ORDERED.

  
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EDUARDO C. ROBRENO, J.